



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456



October 10, 2001

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

**LETTER OF DEFICIENCY
No. WMD 01-29**

Shaker Valley Auto Body
Route 4, Box 427
Enfield, NH 03748

Attn: Jack McAlister, Owner

**RE: Shaker Valley Auto Body, Enfield, NH
EPA ID No. NHD982746992**

Dear Mr. McAlister:

On September 19, 2001, the Department of Environmental Services (DES) conducted an inspection of Shaker Valley Auto Body (Shaker). The purpose of the inspection was to determine Shaker's compliance status with RSA 147-A and its implementing regulations, the New Hampshire Hazardous Waste Rules (codified as Env-Wm 100-1000).

As a result of the inspection, the following deficiencies in your hazardous waste management program were documented:

1 Env-Wm 502.01 - hazardous waste determination

At the time of the inspection, DES confirmed that Shaker generates only one hazardous waste stream; waste paint related material. However, a review of Shaker's year 2001 records indicated that the EPA waste codes used on Hazardous Waste Manifests differed between disposal dates (i.e. F003/F005 vs. D001/D039/D018/D040). It was also unclear whether additional waste codes and/or waste code omissions should apply.

Env-Wm 402.06(a) lists the following as generic industrial process wastes:

F003...The following spent non-halogenated solvents: xylene, *acetone*, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and *methanol*; all spent solvent mixtures/blends containing, before use, only the above spent non-halogenated solvents; all spent solvent mixtures/blends containing, before use, one or more of the above non-halogenated solvents, and, a total of 10 percent or more, by volume, of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

F005... The following spent non-halogenated solvents: *toluene*, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitopropane; all spent solvent mixtures/blends containing, before use, a total of 10 percent or more, by volume, of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F004; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

Env-Wm 502.01 requires that all generators of waste determine if their waste is a hazardous waste. Waste determined to be hazardous must be handled pursuant to the requirements of the Hazardous Waste Rules. This includes documenting appropriate EPA and/or state waste codes for hazardous waste disposal shipments.

DES requests that Shaker perform an adequate hazardous waste determination for its waste paint related material. DES believes this determination could be accomplished using knowledge of the hazardous constituents or characteristics of the waste, based on the materials or processes used to generate the waste. For example, review the information provided on Material Safety Data Sheets (MSDS) for all products introduced to the waste, including, but not limited to; 1) lacquer thinner; 2) automotive paint; 3) gun washer solvent; and 4) enamel reducer. Pertinent MSDS information may include product ingredients and product flashpoints. Following the identification of the applicable waste ingredients (i.e. acetone, methanol) and characteristics (i.e. flashpoint), appropriate EPA/State waste codes should be assigned to the waste. Also, appropriate waste codes should, thereafter, be consistently used unless the waste stream constituents change.

Shaker may also elect to perform analytical testing of the waste paint related material. If analytical testing is employed, it should include, at a minimum, analysis to detect organic solvents and a test for ignitability under Env-Wm 403.03.

Shaker will need to provide the results of the hazardous waste determination, along with any other supporting data, including chemical analyses, to DES. For your convenience, enclosed is a list of laboratories that perform hazardous waste analysis.

2. Env-Wm 507.01(a)(3) - storage requirements

At the time of the inspection, one (1) 25-gallon container of hazardous waste was not closed. (See hazardous waste container inventory).

Env-Wm 507.01(a)(3) requires generators to ensure that containers storing hazardous waste be closed at all times, except when waste is being added to or removed from the containers.

DES requests that Shaker ensure that containers storing hazardous waste be closed at all times, except when adding or removing waste from the containers.

3. Env-Wm 507.03(a)(1)a. - container marking

At the time of inspection, the one (1) 25-gallon container of hazardous waste was not marked with a beginning accumulation date.

Env-Wm 507.03(a)(1)a. requires that all containers used for the storage of hazardous waste be marked with a beginning accumulation date at the time they are first used to store wastes.

DES requests that Shaker properly mark all containers of hazardous waste with the beginning accumulation date at the time they are first used to store waste.

4. Env-Wm 507.03(a)(1)b., c., and d. - container marking

At the time of the inspection, the one (1) 25-gallon container of hazardous waste was not marked with the words "hazardous waste", words that identify the contents of the container, and the EPA or state waste number. (See hazardous waste container inventory).

Env-Wm 507.03(a)(1)b., c., and d. require that all containers used for the storage of hazardous waste be marked with the following information at the time they are first used to store wastes: the words "hazardous waste"; words that identify the contents of the container; and the EPA or state waste number.

DES requests that Shaker properly mark all containers of hazardous waste at the time they are first used to store waste with: the words "hazardous waste"; words that identify the contents of the container; and the EPA or state waste number.

5. Env-Wm 508.02(c) – storage requirements

At the time of the inspection, Shaker had not posted a "No Smoking" sign near ignitable wastes in the hazardous waste storage area.

Env-Wm 508.02(c) requires that generators post a "No Smoking" sign near ignitable or reactive wastes.

DES requests that Shaker post a "No Smoking" sign near ignitable wastes stored in the facility's hazardous waste storage area (paint booth).

6. Env-Wm 807.06(b)(4) - standards for generators of used oil being recycled

At the time of the inspection, Shaker was storing one (1) 25-gallon container of used oil destined for recycling, which was not labeled with the words "Used Oil for Recycle."

Env-Wm 807.06(b)(4) requires that generators of used oil destined for recycling label their containers and tanks with the words "Used Oil for Recycle" at all times during accumulation and storage.

DES requests that Shaker label all containers and tanks of used oil destined for recycle with the words "Used Oil for Recycle" at all times during accumulation and storage.

7. Env-Wm 807.06(b)(5) – standards for generators of used oil being recycled

At the time of the inspection, the one (1) 25-gallon container of used oil destined for recycling, was not closed.

Env-Wm 807.06(b)(5) requires that used oil be placed in containers or tanks that remain closed at all times, except when used oil is being added to or removed from the container or tank.

DES requests that all containers and tanks be kept closed at all times except to add or remove used oil. Safety funnels that thread into the bung and have closeable lids that seal are acceptable for this purpose.

8. Env-Wm 807.06(b)(7) - standards for generators of used oil being recycled

At the time of inspection, Shaker disclosed that their generated used oil was disposed of collectively with Shaker Valley Auto. A subsequent telephone conversation with Mr. Robert LaCroix, Owner of Shaker Valley Auto, revealed that used oil generated at both facilities (Shaker Valley Auto Body and Shaker Valley Auto) was sent for off-site burning. It was also disclosed that a used oil determination had not been conducted for the shipments disposed.

Env-Wm 807.06(b)(7) requires generators to conduct an initial used oil determination on their used oil by analyzing it for all of the parameters specified in Env-Wm 807.02 and Env-Wm 807.03 (exclusive of PCBs if no source of PCBs is present).

DES requests that Shaker conduct an initial used oil determination for the parameters outlined in Env-Wm 807.02 and Env-Wm 807.03. These parameters include arsenic, cadmium, chromium, lead, flash point, and total halogens. Shaker should provide the results of the used oil determination to DES. Enclosed please find a summary of the used oil regulations and a list of analytical laboratories that perform the required testing.

As stated above, used oil generated by Shaker was previously transported off-site to undisclosed facilities for subsequent burning. Please be advised that Env-Wm 807.08(a)(1)a. of the New Hampshire Hazardous Waste Rules defines a "marketer" of used oil being recycled as a generator who transfers used oil directly to a burner. Since used oil generated at Shaker is burned off-site, Shaker is considered a marketer of used oil. As such, Shaker is

subject to the provisions of Env-Wm 807.09 of the NH Hazardous Waste Rules, "Standards for Marketers of Used Oil Being Recycled", which includes, but is not limited to, notification, analysis of each batch of used oil transferred, shipment on a 3-copy bill of lading, and certain record keeping requirements.

However, if Shaker chooses instead to act only as a generator of used oil, then you only need to comply with the generator requirements of Env-Wm 807.06. Under Env-Wm 807.06, you will need to ensure that the oil is delivered to a facility authorized to accept it and use a registered hazardous waste transporter. As a generator, you may choose to use the self-transport option and transport up to 110 gallons at any one time, as long as the used oil is delivered to a notified marketer or authorized collection facility which will perform testing of the oil. Enclosed is a list of registered hazardous waste transporters who have also notified the Waste Management Division of their marketing activities. You may find that these marketers may pick-up your used oil directly at your business for delivery to an authorized facility at little or no cost to you.

DES believes the cited deficiencies can be corrected and a report describing the corrective measures taken by Shaker can be submitted within thirty (30) days of receipt of this letter. Supporting documentation that describes the measures taken to achieve compliance should be included with the report.

In the event compliance is not achieved within this period, DES may take further action against Shaker, including issuing an order requiring that deficiencies be corrected, initiating an administrative fine proceeding, and/or referring the matter to the New Hampshire Department of Justice for imposition of civil penalties. In addition, DES personnel may reinspect your facility at a later date to determine whether the facility has come into, and is maintaining, full compliance with the applicable rules. Fines may be pursued for any or all violations observed during subsequent inspections of the facility.

The written report as requested above should be addressed as follows

Kenneth W. Marschner, Administrator
DES/WMD
6 Hazen Drive
Concord, New Hampshire 03301-6509

Enclosed you will find a copy of the completed Multi Media Partial Inspection Checklist which documents the compliance status of your facility at the time of the inspection. This checklist may also be of value to you for use in determining future compliance with the New Hampshire Hazardous Waste Rules.

A current, full set of the State of New Hampshire Hazardous Waste Rules, as well as much other useful information, can be obtained from DES's website at <http://www.des.state.nh.us/hwcs/>, or by contacting the Public Information Center at (603) 271-2975.

It is the goal of DES to promote the prevention of pollution at the source as the preferred option for meeting established environmental quality goals. We strive to ensure that pollution prevention options are considered first, followed by recycling, treatment and disposal. I am requesting that the DES's Pollution Prevention Coordinator, Stephanie D'Agostino, contact you to discuss possibilities for waste minimization or source reduction at your facility. In the meantime, if you have immediate questions about pollution prevention, please feel free to contact her at 271-6398.

As a service to New Hampshire's hazardous waste generators, we maintain a Hazardous Waste Assistance Hotline that is available for you to contact our knowledgeable staff of hazardous waste inspectors. Our hazardous waste staff is available to answer your questions concerning the New Hampshire Hazardous Waste Rules and the compliance issues which affect your hazardous waste management program. The technical assistance available through the Hotline includes fact sheets that pertain to the management and recycling of specific wastes, summary sheets of specific sections of the Hazardous Waste Rules, copies of EPA and New Hampshire hazardous waste policy or regulatory interpretation letters that may benefit your operation, and networks with other state or federal agencies to answer your questions on a national level. The Hotline is available Monday through Friday, 8:00 AM to 4:00 PM at 271-2942.

Should you have any questions regarding this letter, please contact the lead inspector, Eric K. Abrams or John J. Duclos, Supervisor of the Hazardous Waste Compliance Section at 271-2942. Specific questions regarding water related issues may be directed to Sharon Ducharme of DES's Water Division at 271-3307, and for air related issues, please contact Pam Monroe of DES's Air Resources Division at 271-1370. Thank you for your cooperation.

Sincerely,



Kenneth W. Marschner, Administrator
Waste Management Programs
Waste Management Division

CERTIFIED MAIL RRR# 7099 3400 0002 9774 2072

cc: DB/RCRA/LOD/Archives
Philip J. O'Brien, Ph.D., Director, WMD
Gretchen Rule, DES Enforcement Coordinator

E-mail: JJD/SD/SD/PM

Enclosure: Inspection Checklist
NHDES list of "Laboratories that Test Hazardous Waste"
NHDES list of "Hazardous Waste Transporters"
NHDES "Summary of Requirements for Management of Used Oil Being Recycled"
NHDES "Laboratories that Perform Used Oil Analysis"